

SHELBY COUNTY ELECTION COMMISSION

SPECIAL COMMISSION MEETING MINUTES

May 18, 2022

The special meeting of the Shelby County Election Commission was held on May 18, 2022 at the O.C. Pleasant, Jr. Election Operations Center, 980 Nixon Drive, at 1:00pm. This meeting was recorded on Facebook live.

MEETING CALLED TO ORDER: By Chairman Luttrell at 1:08pm.

COMMISSIONERS PRESENT: Commissioners Smith, Kimbrow, Stamson, and Uhlhorn

OTHERS IN ATTENDANCE:

Linda Phillips, AOE

Joe Young, DAOE

Monice Hagler, Attorney

Jacob Swatley, Attorney

Deborah Upchurch, staff

Sherry Hewlett, staff

Ron Boozer, staff

Destini Johnson, KQ Communications

Bill Dries, Media

Theryn C. Bond

Sarah W. Freeman

Ari Sawyer-Brooks

Rose Ann Bradley

Mary Mackey

Linda Street

Aaron Robinson

Darren Wagner

Eugenia Wagner

PLEDGE OF ALLEGIANCE

RESOLUTION TO CERTIFY THE MAY 3, 2022 PRIMARY ELECTION

MOTION STATED: Commissioner Stamson SECONDED BY: Commissioner Uhlhorn

VOTE TALLY: Luttrell, Yea; Smith, Nay; Kimbrow, Yea; Stamson, Yea; Uhlhorn, Yea

OUTCOME OF MOTION: Passed

AOE Phillips recommended certifying the candidates that won the election. List is included in folder. Accounting firm report previously emailed to commissioners. Report showed no significant errors.

Commissioner Smith stated that statute §2-12-116 mandates the Commissioners compare poll tapes to tabulator results to ensure accuracy and asked if that was done. AOE Phillips confirmed it was done. Commissioner Smith stated that he did not participate in the comparison. He also stated that he had requested a SOVC and received an export, but did not receive the precinct level Gems. AOE Phillips stated SOVC was available, wrong file may have been sent.

AOE Phillips later advised that code §2-8-104 authorizes the Commission to designate people to review the tapes. Commissioner Smith stated that he had not abdicated the responsibility.

Commissioner Kimbrow stated for the record that she was obligated to the public to provide transparency. She stated that she did not receive all of the information she requested at the last meeting. She also stated that AOE Phillips did make available the tapes today as well as sent the Gems report. Commissioner Kimbrow stated that there was a meeting with Commission Council that was not announced or attended by either Democratic Commissioners. She expressed her objection to such meeting to AOE Phillips, Chairman Luttrell and Attorney Swatley. Commissioner Kimbrow advised Attorney Swatley that meetings with more than one Commissioner should be stopped until notice is given to all Commissioners. She also requests that she be given notice of all meeting dates and times from the attorney's office when services are billed unless it is on a Chairman only matter.

CHAIRMAN LUTTRELL ADDED AMBER MILLS ELIGIBILITY CHALLENGE MATTER TO THE AGENDA:

MOTION TO SUBMIT THE MATTER OF AMBER MILLS TO JUDICIAL REVIEW FOR DETERMINATION ON ALL MATTERS RELAVENT TO THE CHALLENGE:

MOTION STATED BY: Commissioner Kimbrow MOTION SECONDED: Commissioner Stamson

MOTION OUTCOME: Unanimous

Chairman Luttrell called on Attorney Swatley for presentation of the matter. Attorney Swatley explained that during the May election process an email was received that challenged Amber Mills candidacy eligibility based on the same residency question as her spouse, Lee Mills. Question is whether or not their home is located in Shelby or Fayette County. Chancellor Kyle has ruled in favor of Lee Mills, but Amber Mills was not part of that judgement. Case law and precedent dictates that appropriate times to challenge qualifications of a candidate are before an election or after election certification. Attorney Swatley advised that the question can now be submitted if the Commission chooses via declaratory judgement action to the Chancery

Court regarding Amber Mills eligibility for County Commission District One (1). The other option is that the Commission could consider the matter settled and proceed.

Commissioner Kimbrow stated that this matter should have been brought forth when challenge was originally issued and submitted to the court at that time.

Commissioner Smith asked Attorney Swatley about possible outcomes of the Amber Mills judgement to the August 4, 2022 Election as it is being submitted now and comparably, if the judgement had been submitted during the election. Attorney Swatley stated that the party of the candidate would likely have to appoint a new candidate if the judgement is not in favor of Amber Mills.

Chairman Luttrell asked Attorney Swatley about the timeline for judgement. Attorney Swatley stated that the courts decide on dates and opposing council will also have input. Upon filing he will ask for the matter to be expedited due to June 10 election deadline.

Commissioner Kimbrow thank you to Commissioners and staff.

ADJOURNMENT:

Motion made to adjourn by Commissioner Stamson, seconded by Commissioner Kimbrow. Meeting adjourned at 1:42pm.

Mark Luttrell, Chairman

Date

Bennie Smith, Secretary

Date